

MINUTES OF SPECIAL TOWN COUNCIL MEETING OF MARCH 24, 1995

I. CALL TO ORDER AND ROLL CALL: President Smith called the Special Meeting of the Town Council on Water to order at 4:00 P.M. on March 24, 1995, in the Town Hall Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Ilyinsky, President Smith, President Pro Tem McDonald, Councilmen McLendon, Wyett, and Shaw. Also attending were Town Manager Robert J. Doney, Public Works Director Albert P. Dusey, Town Engineer James Bowser, Planning, Zoning & Building Director Robert L. Moore and Town Clerk Mary A. Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Pollitt. The Pledge of Allegiance was led by President Smith.

III. APPROVAL OF AGENDA: Motion was made to approve the agenda by Mr. McDonald. Seconded by Mr. Wyett. The motion carried unanimously.

IV. WATER SUPPLY ISSUES: Mr. McLendon reported that he met with Mayor Graham of West Palm Beach earlier that day and a number of water issues between the two municipalities were discussed.

The Statues, particularly the Statute that gives the City of West Palm Beach the right to impose a surcharge on the Town of Palm Beach, were discussed, and he gave his impressions to Mayor Graham of what the Statute intended. Mr. McLendon stated that Mayor Graham was very cordial and eager to discuss the issues. She expressed a willingness to enter into a friendly lawsuit with the idea of putting the issue to bed once and for all as to whether the surcharge is legal. He felt that she obviously had legal advice that the City of West Palm Beach was within their rights on this issue.

Mr. McLendon pointed out that a number of other issues were also discussed. He noted that the present rates are based on the Water and Waste Water Rate Study done by the City of West Palm Beach in 1994. For a three year period of 1991-1994, the average water use projected at the current rates show that the average use in a single family home in the Town of Palm Beach was about 36% more than the average use in a single family home in West Palm Beach. Mr. McLendon felt that there should be some consideration of the 36% use when a surcharge is specified.

Mr. McLendon said that he mentioned to Mayor Graham that the he had gone over the bond issue documents for water, sewage and drainage projects from the City of West Palm Beach, and that he had concluded that all of the monies from water revenues were to be deposited, after expenses, into the water fund, not permitting it to be utilized elsewhere, as he understood they had done. Mayor Graham said that she would take a look at that and see if what he read was indeed fact.

Mr. McLendon also discussed the situation regarding the waiving of costs for developers which would encourage additional water customers on the west end of the Town. Mayor Graham told him that it is not what it appeared to be--that all they were doing was advancing the ability to have the lines and that the monies collected would not result in the City being shortchanged. Mr. McLendon added that was not his understanding, and he would like to look at that more extensively.

Mr. McLendon continued that Mayor Graham is willing to negotiate on all issues that the Town would care to bring up. The negotiations would include the City of West Palm Beach staff, Mr. McLendon, and the Town of Palm Beach staff. Mr. McLendon said that he had also discussed the possibility of taking a good portion of the equivalent of the surcharge and setting up a trust, using it for improvements. He continued that he had confirmed to Mayor Graham that the Town is definite in the pursuit of alternatives in a friendly manner, and she responded likewise.

Mrs. Smith asked if any members of the Council had any questions for Mr. McLendon.

Mr. Wyett asked Mr. McLendon if he had an opportunity to discuss the C-51 Canal issue and the loss of revenue for West Palm Beach with Mayor Graham.

Mr. McLendon responded that he had commented that he saw no other way of meeting the mandated reduction in water use other than going to a non-potable use for irrigation purposes.

President Smith asked Mr. McLendon if Mayor Graham had expressed her feelings on the new contract--whether it would take place while the friendly lawsuit was underway or would the contract negotiations wait until the lawsuit had been settled?

Mr. McLendon replied that this had not been defined at his meeting with Mayor Graham, but he would assume that many of the issues could be discussed during a friendly lawsuit, and that he did not see a need to wait for the surcharge issue to be settled.

Mr. McDonald asked Mr. McLendon if a date for another meeting had been set.

Mr. McDonald responded that he had not set a date as he wanted to come back to Council with his report before doing that.

Mr. McDonald inquired when Mr. McLendon would be ready for the next meeting.

Mr. McLendon stated that a week or ten days would be sufficient time.

President Smith asked Mr. McLendon if the Hutcheon report due at the April Town Council Meeting would be helpful to him for his next meeting, and he agreed that it would be, although it was not a necessity.

Mr. Wyett suggested that another Water Committee Meeting be scheduled in order to get the details of the contract in order, omitting the surcharge issue, including all of the other points.

Mr. McLendon explained that he felt that there may be some items attached to the surcharge issue that would have to be included in a contract, thus it was a part of the package.

President Smith asked if there was any member of the public wishing to speak. There was none.

Mr. C. H. Vescelius of the Civic Association addressed the Council, stating that he agreed with Mr. Wyatt in that he believed three objectives could be carried on simultaneously. At the same time, he thought that the contract was very complicated--the Town's contract proposals had been returned with lines drawn through almost every page, rejecting it. Now, he believed that some of these provisions should be restored and not given up too readily.

President Smith mentioned that it was obvious that Mr. McLendon had a good rapport with Mayor Graham and her willingness to negotiate was a very positive step forward.

Mr. McLendon wanted to point out that the agreement between the Town of Palm Beach and the City of West Palm Beach is a "franchise agreement." He felt that there are some things in it that are not needed, and that he would be looking at restoring it to a franchise agreement.

Mr. Vescelius noted that the Town had an ordinance on this subject, passed in 1965, outlining the rules as to how this contract should work, including that the rates on water charged citizens of the Town should be reasonable, fair and proper. He felt that a 25% surcharge was certainly not reasonable, fair and proper.

Mr. McLendon responded that Mr. Randolph had discussed the legal issues with the City about the ordinance that gave the Town the right to purchase the distribution system--that the Town would not have to pay for that portion of the system that had been paid for by developers. The Town has taken the position that was still in effect, however, there was a legal question by the City of West Palm Beach that it expired with the contract. Mr. McLendon had asked city officials how difficult it would be to get the records showing where the lines were and which ones had been paid for by the City of West Palm Beach as opposed to developers, and he was assured that it was something that was on their agenda to do.

President Smith asked if the Town would have any such records?

Mr. Doney responded that he thought the Town would have master subdivision plat files, indicating the date the plat had been filed--shortly after that the agreement to construct improvements would have been done, so the records are traceable.

Mr. McLendon stated that there was approximately 300,000 feet of pipe in the Town and at a cost of \$100 per foot to replace it, that would be \$30,000,000.

President Smith asked Mr. McLendon what action would be taken next?

Mr. McLendon responded that a Water Committee Meeting should be set, as well as another meeting with Mayor Graham.

President Smith asked if Mr. McLendon would prefer to set the meetings after the April Town Council meeting when the Hutcheon report would be available?

Mr. Shaw pointed out that the report may be available before the April Town Council Meeting, and, if so, a meeting could be scheduled more quickly.

Mr. McLendon saw no problem with that, since the availability of the report was only one element--reviewing the proposed agreement was also important.

Mr. Dusey addressed the Council concerning the anticipated date of the Hutcheon report, stating that it was still not finished, and he would be meeting with them soon to see if they were going in the right direction.

Mr. McDonald agreed with Mr. McLendon in that the report was indeed one element of many, and a Water Committee Meeting could be scheduled quickly, and also schedule a meeting with Mayor Graham.

President Smith asked what the point would be in scheduling a second meeting with Mayor Graham if all of the information was not available?

Mr. Wyatt felt if the Hutcheon report could be reviewed prior to the April Town Council meeting it would be more beneficial to discussion.

Mr. McLendon reminded everyone that the report would be on one issue and not system-wide problems. He asked Mr. Dusey about the inclusion of dual piping on streets with 4 inch pipes and asked for clarification of the size.

Mr. Dusey responded that the size of the pipe was recommended by the design engineer and explained the the Town Engineer, Jim Bowser would speak to the issue.

Mr. Bowser addressed the Council, stating that in this particular case the pipe could even be smaller than 4 inches since only street ends of four streets were being done and that involves very few properties.

Mr. McLendon replied that he could understand the smaller pipe size for just a few properties, but between County Rd. and Ocean Blvd. he thought 8 inch pipes should be used.

Mr. Bowser clarified the scope of the project. The drainage project would extend approximately 100 feet east of Travers Way and 100 feet east of Pelican. The pipes would not be run on County Rd. and Ocean Blvd.

Mr. Wyatt felt that a meeting should be scheduled with Mr. Randolph, Town Attorney, present as well as staff.

President Smith suggested that several dates be given for the meetings so that a schedule could be cleared with staff and Mr. Randolph. The dates of March 31 and April 7, 1995 were proposed as tentative meeting dates (these dates were later changed to March 30 and April 6, 1995).

Mrs. Smith asked Mr. Wyatt and Mr. McLendon if input from other members of the Town Council for the water meetings was desired.

Mr. McLendon replied that any suggestions that would improve the situation would be welcomed.

President Smith explained that the Council Members have been over the contract for the past two years, however, it may be considered premature for members of the Council to submit their remarks until asked by the Water Committee after their meetings.

Mr. McLendon responded that he felt that he and Mr. Wyett needed to take their notes, combine them into a single proposed contract and then receive Council input.

President Smith felt that would be appropriate.

V. ANY OTHER MATTERS:

There were none.

VI. ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:30 P.M.

Mary A. Pollitt
Town Clerk

Prepared By:
Sue Eichhorn